

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL M. PENNELL,

Petitioner,

v.

RONDA J. PASH,

Respondent.

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No. 4:16-CV-352 SPM

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's second motion for appointment of counsel. (Doc. 38). After review of this action, Petitioner's motion for appointment of counsel will be denied without prejudice.

In deciding whether to appoint counsel, this Court considers "the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel." *Morris v. Dormire*, 217 F.3d 556, 558–59 (8th Cir.2000) (internal quotations omitted). "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings." *Id.* at 558 (internal quotations omitted). Petitioner has pursued his claims at times *pro se*, or sometimes in combination with his assigned counsel, in his direct and post-conviction proceedings. In this case, the record is fully developed, the case is not particularly legally or factually complex, and Petitioner has already filed both his petition for habeas relief and his reply to the government's answer with no apparent difficulties. Therefore, the Court finds that the appointment of counsel would not benefit Petitioner and the Court to such an extent that the interests of justice require the appointment of counsel at this time. Accordingly, Petitioner's motion for appointment of counsel will be denied.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for appointment of counsel (Doc. 38) is **DENIED** without prejudice.

A handwritten signature in black ink, appearing to read "Shirley Padmore", written over a horizontal line.

SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE

Dated this 5th day of June, 2018.